IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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Writ Petition No. 16436 of 2004

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Between:

Rasbihari Enterprises Ltd.,

(Formerly known as Rasbihari Tobacco Processors Ltd.)

Admin.Office:Camel house, Nashik-Pune Road, Nashik,

Maharashtra – 422 011 rep.by its Production General Manager.

..... PETITIONER

AND

1.The Controlling Authority under Payment of Gratuity Act

and Asst.Commissioner of Labour, Karimnagar.

2.Smt.Bairy Manevva, D/o.Devada, 35 years,

Beedi Roller, H.No.5-3-58, Subhasnagar, Siricilla,

Karimnagar.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction, or Writ more particularly one in the nature of Writ of Mandamus after calling for the records from the first respondent in P.G. Case No.5 of

2002 dt.12.05.2004 and restrain the first respondent from adjudicating the same.

Counsel for the Petitioner: Mr.S.Ravindranath

Counsel for the Respondent No.1 : GP FOR LABOUR

The Court at the stage of admission made the following :

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THE HONOURABLE DR.JUSTICE G.YETHIRAJULU

Writ Petition No. 16436 of 2004

ORDER:

The petitioner is a beedi manufacturer. The petitioner is disputing the relationship of employer and workman with the second respondent. The petitioner approached this Court through this writ petition, seeking a writ of Mandamus by way of calling for the records of the first respondent in P.G.M.P. Case No.5 of 2002 and to pass appropriate orders according to law.

2. The second respondent approached the Assistant Commissioner of Labour, Karimnagar, who is the Controlling Authority under the Payment of Gratuity Act, 1972, under Section 7 (4) (b) of the Act, for condonation of delay in making the application for gratuity. The said Authority through the order dated 12.05.2004 condoned the delay in filing the application and directed numbering of gratuity application as P.G.No.22 of 2004 and the matter was posted to 25.08.2004 for counter by the petitioner herein on the said application. The petitioner instead of filing the counter before the concerned Authority, approached this Court through this writ petition, requesting to quash the order of the first respondent dated 12.05.2004.

3. The learned counsel for the petitioner submitted that the first respondent made certain observations, touching upon the merits of the case regarding the payment of gratuity to the second respondent, therefore, the orders cannot be sustained.

4. The operative portion of the order discloses that the first respondent condoned the delay in filing the application and no order has been passed on merits on the gratuity

application. The petitioner has got every liberty to raise all the objections and pleas before the first respondent through counter and the first respondent has to take into consideration all the objections and the pleas raised by the petitioner and answer them according to the material available on record and the rules. The observations, if any, made by the first respondent in the order dated 12.05.2004 touching upon the merits of the claim of the second respondent regarding payment of gratuity shall be treated as deleted from the order. The petitioner is at liberty to file counter before the first respondent in the above matter and get order on merits.

5. The Writ Petition is accordingly disposed of. No order as to costs.

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Dr.G.YETHIRAJULU, J

Date:15th September, 2004.

Cs/KM

NOTE:

Issue C.C. in one week.

B/O

CS/KM

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Controlling Officer under Payment of Gratuity Act and

Asst. Commissioner of Labour, Karimnagar.

2. Two C.Cs. to the Government Pleader for Labour, High Court

Buildings, Hyderabad. (O.U.T.)

3. Two C.D. copies.